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12 Attorneys for Plaintiffs
Johnnie Morton, et al.

14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF PENNSYLVANIA

16 JOHNNIE MORTON; KEZ
17 MCCORVEY; KURT BARBER; MIKE
SHERRARD; STOCKAR MCDUGLE
18 and his wife, OCTAVIA MCDUGLE;
TOI COOK and his wife, KRISTINE
19 COOK; BRIAN C. DUDLEY; BRAD
BOOTH; CHRIS HALE; JOHN
20 JACKSON and his wife, ANN
FRANCES JACKSON; DENNIS CLAY
21 and his wife, STACEY CLAY;
NORMAN SCOTT BYERS and his wife,
22 STEPHANIE BYERS; DARRYL
CRANE; BENJAMIN J. SCOTTI; and
23 RALPH V. GUGLIELMI,

24 Plaintiffs,

25 v.

26 NATIONAL FOOTBALL LEAGUE;
NFL PROPERTIES, LLC; RIDDELL,
27 INC. d/b/a/ RIDDELL SPORTS GROUP,
INC.; ALL AMERICAN SPORTS
28 CORPORATION, d/b/a RIDDELL/ALL

MDL No. 2323
Master Case No. 12-md-2323
Individual Case No. 2:12-cv-05435

Hon. Anita B. Brody

**FIRST AMENDED COMPLAINT
FOR:**

1. Negligence;
2. Fraud;
3. Fraudulent Concealment;
4. Negligent Misrepresentation;
5. Strict Liability for Design Defect;
6. Negligence;
7. Failure to Warn;
8. Negligence;
9. Loss of Consortium.

DEMAND FOR JURY TRIAL

1 AMERICAN; RIDDELL SPORTS
 2 GROUP, INC.; EASTON-BELL
 3 SPORTS, INC.; EASTON-BELL
 4 SPORTS, LLC; EB SPORTS CORP.;
 5 AND RBG HOLDINGS CORP.; and
 6 Does 1 through 100, inclusive.

7 Defendants.

8 Plaintiffs, on behalf of themselves, by and through their attorneys, hereby
 9 complain of Defendants named above, and hereby allege as follows:

10 I. INTRODUCTION

11 1. This action is brought by Plaintiffs former National Football League
 12 (“NFL” or “League”) players who seek damages for the long-term chronic injuries,
 13 financial losses, expenses, and intangible losses they suffered as a result of
 14 Defendants’ wrongful conduct with respect to concussive brain injuries sustained by
 15 Plaintiffs during their NFL careers and the subsequent damaging effects.

16 2. For many decades, evidence has linked repetitive concussive brain
 17 injuries to long-term neurological problems in many sports. Defendants were aware
 18 of the evidence and the subsequent damaging effects associated with repetitive
 19 concussive brain injuries; however, Defendants deliberately ignored, misrepresented
 20 and actively concealed the information from Plaintiffs and all others who participated
 21 in organized football.

22 3. In 1994, the NFL voluntarily undertook to create and fund the Mild
 23 Traumatic Brain Injury Committee (the “MTBI”) in an attempt to undermine existing
 24 scientific studies and evidence that linked head concussions received by NFL players
 25 to long-term neurological problems. In 1997, Riddell became a part of the MTBI’s
 26 project of assessing concussions and health consequences to NFL players by
 27 analyzing and reconstructing head impacts. These studies have largely contradicted
 28 over 75 years of weighted scientific evidence.

4. Simply put, Defendants not only failed to inform players of the true risks
 of concussive brain injuries and the subsequent damaging effects, but also

1 fraudulently misrepresented and concealed medical evidence on the issue from
2 Plaintiffs.

3 **II. JURISDICTION AND VENUE**

4 5. Jurisdiction is based upon the California Constitution Article 6, Section
5 10.

6 6. Venue is proper in this Court pursuant to Section 395(A) of the
7 California Code of Civil Procedure.

8 **III. IDENTIFICATION OF THE PARTIES**

9 **Plaintiffs**

10 7. Mr. Johnnie Morton is a resident of and is domiciled in the State of
11 California.

12 8. Mr. Kez McCorvey is a resident of and is domiciled in the State of
13 Florida.

14 9. Mr. Kurt Barber is a resident of and is domiciled in the State of
15 Kentucky.

16 10. Mr. Mike Sherrard is a resident of and is domiciled in the State of
17 California.

18 11. Mr. Stockar McDougale and his wife, Octavia, are residents of and are
19 domiciled in the State of Florida.

20 12. Mr. Toi Cook and his wife, Kristine, are residents of and are domiciled
21 in the State of California.

22 13. Mr. Brian C. Dudley is a resident of and is domiciled in the State of
23 California.

24 14. Mr. Brad Booth is a resident of and is domiciled in the State of
25 California.

26 15. Mr. Chris Hale is a resident of and is domiciled in the State of California.

27 16. Mr. John Jackson and his wife, Ann Frances, are residents of and are
28 domiciled in the State of California.

1 been the official helmet provider of the NFL since 1989. Riddell, Inc. regularly
2 conducts business in the State of California.

3 25. Defendant All American Sports Corporation (d/b/a Riddell/All
4 American) ("All American Sports") is a corporation organized and existing under the
5 laws of the State of Delaware with its principal place of business at 669 Sugar Lane,
6 Elyria, Ohio 44035. All American Sports is engaged in the business of designing,
7 manufacturing, selling and distributing football equipment, including helmets, to the
8 NFL, and has been the official helmet provider of the NFL since 1989. All American
9 Sports regularly conducts business in the State of California.

10 26. Defendant Riddell Sports Group, Inc. ("Riddell Sports Group") is a
11 corporation organized and existing under the laws of the State of Delaware with its
12 principal place of business at 6255 N. State Highway, Suite 300, Irving, Texas 76038.
13 Riddell Sports Group operates as a subsidiary of Easton-Bell Sports, Inc. Riddell
14 Sport Groups regularly conducts business in the State of California.

15 27. Defendant Easton-Bell Sports, Inc. is a corporation organized and
16 existing under the laws of the State of Delaware with its principal place of business at
17 7855 Haskell Avenue, Suite 200, Van Nuys, California 91406. Easton-Bell Sports,
18 Inc. is a parent corporation of Riddell Sports Group. Easton-Bell Sports, Inc. is
19 engaged in the business of designing, developing and marketing branded athletic
20 equipment and accessories, including marketing and licensing products under the
21 Riddell brand. Easton-Bell Sports, Inc. regularly conducts business in the State of
22 California.

23 28. Defendant Easton-Bell Sports, LLC ("Easton-Bell Sports, LLC") is a
24 corporation organized and existing under the laws of the State of Delaware with its
25 principal place of business at 152 West 57th Street, New York, New York 10019.
26 Easton-Bell Sports, LLC is the parent corporation of Easton-Bell Sports, Inc. Easton-
27 Bell Sports, LLC regularly conducts business in the State of California.

28 29. Defendant EB Sports Corp. is a corporation organized and existing under

1 the laws of the State of Delaware with its principal place of business at 7855 Haskell
2 Avenue, Van Nuys, California 91406. All of the issued and outstanding voting
3 common stock of EB Sports Corp. is owned by Easton-Bell Sports, LLC. EB Sports
4 Corp. regularly conducts business in the State of California.

5 30. Defendant RBG Holdings Corp. is a corporation organized and existing
6 under the laws of the State of Delaware with its principal place of business at 7855
7 Haskell Avenue, Suite 350, Van Nuys, California 91406. RBG Holdings Corp. is a
8 wholly-owned subsidiary of EB Sports Corp. RBG Holdings Corp. regularly
9 conducts business in the State of California.

10 31. Defendants Riddell, Inc., All American Sports, Riddell Sports Group,
11 Easton-Bell Sports, Inc., Easton-Bell Sports, LLC, EB Sports Corp. and RBG
12 Holdings Corp., shall hereinafter be referred to collectively as “Riddell” or the
13 “Riddell Defendants.” The NFL and Riddell are collectively referred to as
14 “Defendants.”

15 IV. GENERAL ALLEGATIONS

16 The NFL

17 32. The NFL was founded as the American Professional Football
18 Association in 1920 and has been known as the National Football League (NFL) since
19 1922. The NFL is and was, at all times herein mentioned, engaged in the business of
20 managing, governing and promoting the game of football, setting and enforcing rules
21 and league policies, and regulating team ownership.

22 33. Today, the NFL consists of 32 team members, generates over \$9 billion
23 annually, and has tremendous influence in the politics and medical research relating
24 to football-related injuries. According to a recent *Wall Street Journal* article, the NFL
25 spent nearly \$5.5 million on lobbying firms since 2006 to address a host of issues,
26 including, player concussions. According to NFL Commissioner Roger Goodell, the
27 NFL has invested over \$5 million in researching concussions alone.

28 34. Upon information and belief, Plaintiffs sustained one or more concussive

1 brain injuries while playing and/or practicing during their NFL careers.

2 **Riddell**

3 35. The Riddell Defendants are and were, at all times herein mentioned,
4 engaged in the business of designing, manufacturing, selling and distributing football
5 equipment, including helmets, to the NFL. Since 1989, Riddell's helmets have been
6 the "official helmet of the NFL." Riddell is currently under contract with the NFL
7 allowing Riddell to continue as the NFL's primary helmet provider through 2014.
8 The NFL estimates that 75% of the helmets used in the NFL are manufactured by
9 Riddell – Riddell estimates that figure is 77%.

10 36. In 1997, Riddell became a part of the MTBI's project of assessing
11 concussions and health consequences to NFL players by analyzing and reconstructing
12 head impacts.

13 37. In 2006, Riddell undertook a study appearing in *Neurosurgery* that was
14 co-authored by members of the MTBI. The study touted Riddell's "Revolution"
15 helmet as reducing the risk of concussions in over 2,000 high school athletes in
16 Western Pennsylvania. The study has been publicly criticized as being worthless.

17 38. Upon information and belief, Plaintiffs wore Riddell helmets at time
18 while playing and/or practicing during their NFL careers.

19 **The CBA**

20 39. Until March 2011, NFL players were all members of the National
21 Football League Players Association ("NFLPA"). The NFLPA negotiates the
22 Collective Bargaining Agreement (the "CBA") setting forth the general minimum
23 contract for all players in the NFL with the National Football League Management
24 Council ("NFLMC").

25 40. The CBA was in place since 1993 and was amended in 1998 and again in
26 2006. The CBA was originally scheduled to expire at the end of the 2012 season;
27 however, in 2008, the owners exercised their right to opt-out of the CBA two years
28 earlier.

1 41. In 2011, the parties failed to reach an agreement for a new CBA.
2 Subsequently, the NFLPA was decertified as the players' representative for collective
3 bargaining.

4 42. Plaintiffs herein are all retirees, are not covered by the CBA, and are not
5 subject of or parties to any collective bargaining between the NFL and the NFLPA.
6 The CBA does not apply to Plaintiffs' present claims. Thus, Plaintiffs' claims are not
7 preempted by federal labor law.

8 **The Scientific Evidence On Concussion Risks**

9 43. Physicians and academics have exhaustively studied and reported the
10 dangers of concussions suffered both inside and outside of sports for well over 75
11 years.

12 44. In 1928, the first case of "Punch Drunk" syndrome in boxers was
13 published in the *American Association Journal* by H.S. Martland, which found that
14 cranial injuries may result in a degenerative progressive lesion or series of scars in the
15 brain tissue, which may eventually result in the condition known as traumatic
16 encephalitis.

17 45. In 1952, the *New England Journal of Medicine*, Vol. 246, discussed a
18 1945 "three strike rule" for concussions in football – if you receive three concussions
19 playing football, you should retire.

20 46. In 1969, a report by the Royal College of Physicians of London
21 confirmed the dangers of chronic brain damage occurring in boxers as a result of their
22 careers.

23 47. In 1973, neurosurgeon R.C. Schneider first described the risks of a
24 disabling and sometimes deadly condition involving a second impact concussion
25 occurring before symptoms of a first concussion disappear. This phenomenon was
26 termed "Second-impact syndrome" in 1984 by Dr. R.L. Saunders.

27 48. In 1980, the *Clinical Neurosurgery* published an article titled, "Football
28 head and neck injuries – an update," which concluded that: "Arbitrarily, most

1 physicians discourage further football participation if an athlete has suffered three
2 cerebral concussions. Strong consideration must be given, however, not only to the
3 number and severity of the concussion, but also to any CAT scan evidence of cerebral
4 edema, contusion, or hemorrhage. With this incredibly sensitive diagnostic tool, one
5 concussion, which is assorted with radiographic evidence of structural brain damage,
6 may be enough to strongly discourage or forbid further football participation.”

7 49. In 1982, the *Canadian Medical Association Journal* published an article
8 titled “Return to athletic competition following concussion,” which concluded that:
9 “The basic recommendation is that return to training and competition should be
10 deferred until all associated symptoms such as headaches have completely resolved.
11 The decision to return must take into account the nature of the sport, the athlete’s
12 level of participation and the cumulative effect of previous concussions. Some
13 athletes will have to avoid any further participation of their sport.”

14 50. In 1986, the *Physician and Sports Medicine Journal* published an article
15 by Dr. Robert Cantu titled “Guidelines for return to contact sports after cerebral
16 concussion,” which established a system to grade the severity of concussions and
17 corresponding guidelines for when players should return. Specifically, the Cantu
18 guidelines permit an athlete to return to play after one week of sustaining a first low-
19 grade concussion *only* if the athlete is asymptomatic.

20 51. In 1991, *JAMA* published an article titled “Concussion in sports.
21 Guidelines for the prevention of catastrophic outcome,” which described “a high
22 school football player who died of diffuse brain swelling after repeated concussions
23 without loss of consciousness” and guidelines “to reduce the risk of such serious
24 catastrophic outcomes after concussion in sports.”

25 52. In 2000, a University of North Carolina study, published in the
26 September-October issue of the *American Journal of Sports Medicine*, found that “the
27 brain is more susceptible to injury when it has not had enough time to recover from a
28 first injury” and “recurrences are more likely because injured players are returning to

1 practice and to games too quickly after blows to the head.”

2 53. In 2001, a report by Dr. Frederick Mueller published in the *Journal of*
3 *Athlete Training* reported that at least one football-related fatality occurred every year
4 from 1945 through 1999, except for 1990. Head-related deaths accounted for 69% of
5 football fatalities. From 1984 through 1999, 69 football head-related injuries resulted
6 in permanent disability.

7 54. In 2002, Dr. Bennet Omalu, a forensic pathologist and neuropathologist
8 in Pittsburgh, Pennsylvania, identified a brain condition termed “Chronic Traumatic
9 Encephalopathy” or “CTE.” Dr. Omalu discovered the condition, marked by dark
10 brown protein staining on the brain while studying the brain of Mike Webster, a
11 National Football League Hall of Famer who died at the age of 50 after years of
12 severe depression and dementia that had reduced him to homelessness. By 2007, Dr.
13 Omalu had identified CTE in the brains of three other deceased former NFL players.
14 He determined the type of brain damage he found in the players was of the same type
15 found in punch-drunk boxers. To date, neuroanatomists have performed autopsies on
16 13 former NFL players who died after exhibiting signs of degenerative brain disease.
17 Twelve of these players were found to have suffered from CTE.

18 55. In 2003, Dr. Kevin Guskiewicz of the University of North Carolina
19 found that having three or four concussions meant twice the risk of depression as
20 never-concussed players, and five or more concussions meant nearly a threefold risk.
21 In 2005, Dr. Guskiewicz also found that retired NFL players who sustained three or
22 more concussions were five times as likely to suffer Mild Cognitive Impairment
23 (“MCI”) than retired NFL players who had no history of concussions.

24 56. In 2003, a NCAA study of 2,905 college football players found that
25 those who have suffered concussions are more susceptible to further head trauma for
26 7 to 10 days after the injury.

27 57. In 2008, Dr. Ann McKee (“McKee”) of Boston University examined the
28 brain tissues of deceased NFL players – John Grimsley (“Grimsley”) and Tom

1 McHale (“McHale”) (both died at the age of 45). McKee found that Grimsley and
 2 McHale’s brain tissue exhibited indications of CTE. McKee noted that “the easiest
 3 way to decrease the incidence of CTE is to decrease the number of concussions.”
 4 McKee further noted that “there is overwhelming evidence that [CTE] is the result of
 5 repeated sublethal brain trauma.”

6 58. In 2008, Boston University School of Medicine’s Center for the Study of
 7 Traumatic Encephalopathy (CSTE) found signs of “severe degradation” in the brains
 8 of ex-NFL athletes. The CSTE also found that “former NFL players between the ages
 9 of thirty and forty-nine experienced memory loss at a rate *19 times higher* than the
 10 average population.

11 59. In 2009, the University of Michigan’s Institute for Social Research
 12 published a study of retired NFL players which found that retired NFL players are
 13 diagnosed with Alzheimer’s disease or similar medical conditions far more often than
 14 the national population, including a rate of *19 times the normal incidence* for men
 15 aged 30 to 49.

16 60. The foregoing references are by no means exhaustive.

17 **Defendants Have A Duty To The Players And The Public**

18 61. The NFL possesses monopoly power over American Football and over
 19 the research and education of physicians, trainers, coaches and NFL players with
 20 brain damage such as Plaintiffs, as well as the public at large, with regard to football
 21 injuries. Even more, the NFL overtly undertook the duty to create and fund the MTBI
 22 to study concussions on behalf of all American Rules Football leagues and players.
 23 As a result, the NFL owed a duty to everyone, including Plaintiffs, in the following
 24 respects:

25 (a) It owed a duty of reasonable care to protect Plaintiffs while
 26 practicing or playing football during their NFL careers;

27 (b) It owed a duty of reasonable care to Plaintiffs to educate Plaintiffs
 28 and other players in the NFL about concussion injury and/or CTE;

(c) It owed a duty of reasonable care to Plaintiff to educate physicians, trainers and coaches about concussion injury and/or CTE;

(d) It owed a duty of reasonable care to Plaintiff to have in place strict return-to-play guidelines to prevent concussion injury and/or CTE;

(e) It owed a duty of reasonable care to Plaintiffs to promote a “whistleblower” system where teammates may bring to the attention of a physician, trainer or coach that another player has sustained concussion injury;

(f) It owed a duty of reasonable care to Plaintiffs to design rules and adequate penalties for players who use their head or upper body to hit or tackle;

(g) It owed a duty of reasonable care to Plaintiffs to design rules to eliminate the risk of concussion during games and/or practices;

(h) It owed a duty of reasonable care to Plaintiffs to promote research into and cure for concussion injury and/or CTE; and

(i) It owed a duty of reasonable care to State governments, local sports organizations, all American Football leagues and players, and the public at large to protect against the long-term effects of concussion injury and/or CTE.

62. In 1997, Riddell undertook to become a part of the MTBI’s project of assessing concessions and health consequences to NFL players by analyzing and reconstructing head impacts. In 2006, Riddell undertook a study appearing in *Neurosurgery* that was co-authored by members of the MTBI. The study touted Riddell’s “Revolution” helmet as reducing the risk of concussions in over 2,000 high school athletes in Western Pennsylvania. The study has been publicly criticized as being worthless.

63. The NFL and Riddell knew as early as the 1920’s of the potential harmful effects on a player’s brain of concussions, but concealed these facts from physicians, trainers, coaches, players and the public until June 2010.

64. Prior to June 2010, Plaintiffs did not know, nor had reason to know, the

1 long-term effects of concussions and relied on the NFL and Riddell to protect them.

2 **Defendants' Knowledge Of Concussions Risks Threatening The Players**

3 65. For decades, Defendants have known that concussions can lead to long-
4 term brain injury, including headaches, dizziness, dementia, depression, Alzheimer's
5 disease and death. Defendants' knowledge of the concussion risks threatening the
6 players is evidenced by Defendants' undertakings to study and/or fund concussion
7 studies.

8 66. In addition, for over 75 years, the scientific and medical community has
9 produced and published medical literature in the United States and other
10 industrialized countries relating to and discussing the harmful effect on humans –
11 particularly players of American football – of repeated concessive blows to the head.
12 These publications were all available and easily accessible to all Defendants.

13 **The NFL Ignored And Fraudulently Misrepresented**

14 **The Concussion Risks Threatening The Players**

15 67. Despite over 75 years of study and knowledge within the scientific and
16 medical community, the supervisory and management role of the NFL, and the
17 studies funded by the NFL (as set forth more fully below), the NFL and its designated
18 representatives, until more recently, have continuously and vehemently ignored any
19 relationship between NFL players suffering concussions while playing, the NFL
20 policies regarding tackling methodology or the NFL policies about return-to-play, and
21 long-term problems such as headaches, dizziness, dementia, depression, and/or
22 Alzheimer's disease that many retired players have experienced. Such ignorance has
23 been evidenced in NFL publications, NFL sponsored so-called medical studies,
24 testimony of NFL representatives before Congress, and in the media. Indeed, not
25 only has the NFL ignored the causal connection, the NFL has also taken an active role
26 in fraudulently concealing and downplaying any connection between concussions in
27 football in the NFL and brain injury or illness.

28 68. In the early 1970s, the NFL became aware of publications accounting for

1 the rate and seriousness of concussion in the sport of football. At the same time, the
2 NFL became aware of the publication of a helmet standard, known as the National
3 Operating Committee on Standards for Athletic Equipment (NOCSAE) for football
4 helmets, and which was intended to improve upon the safety of helmets and minimize
5 the risk of head injury. The NFL also learned that the NCAA and National High
6 School Football Federations (NHSFF) had adopted a policy requiring by the
7 beginning of the 1978 season that all helmets used in their respective organizations
8 must be approved for sale and comply with the NOCSAE standard. However, the
9 NFL did not make or adopt a similar policy at that time.

10 69. In 1976, the NCAA and NHSFF began to recognize that the helmet-face
11 mask combination was contributing to the use of the helmeted head as an offensive
12 weapon, which in turn increased the rate of concussions. Accordingly, the NCAA
13 and NHSFF initiated changes which prohibited contact of the head in blocking and
14 tackling. While the NFL was aware of these risks and the changes made by the
15 NCAA and NHSFF, it failed to take similar action at that time. Instead, during the
16 1970s, 1980s, 1990s and 2000s, NFL players were being coached, trained and
17 encouraged to use all portions of their helmets to block, tackle, butt, spear, ram and/or
18 injure opposing players by hitting with their helmeted heads. These techniques were
19 condoned by the NFL and/or were not significantly condemned by the NFL.

20 70. It was not until 1979 that the NFL finally issued a rule that charged a
21 penalty (though trivial) against players who are found to have used their helmets to
22 butt, spear or ram an opponent with the crown or top of the helmet. This undertaking
23 by the NFL, based upon its duty of care to the NFL players, however, fell far short of
24 the important safety and injury prevention that it should have taken. This rule came
25 several years after the 1976 rules by the NCAA and NHSFF were adopted and limited
26 the penalty only to contact with the crown or top of the helmet, which ignored the
27 more prevalent practice of other helmet contact (contact other than with the crown or
28 top of the helmet) that was causing a substantial and high rate of concussions among

1 NFL players.

2 71. In 1994, the NFL voluntarily undertook to create and fund the MTBI –
3 it's so-called "expert" committee – to purportedly study the effects of concussions on
4 NFL players. The MTBI was chaired by Dr. Elliot Pellman, a rheumatologist who
5 had no special knowledge of brain injuries or concussions. As explained more fully
6 below, the MTBI's NFL-funded "studies" (based on bias data collection techniques,
7 which omitted large numbers of players from its studies) regularly contradicted
8 established findings and did nothing but fraudulently conceal, misrepresent and
9 downplay clear medical evidence that on-field concussive brain injury led directly to
10 long-term neurological problems for players.

11 72. For example, in 2004, the MTBI published a paper in which it asserted
12 that it found there was "no evidence of worsening injury or chronic cumulative effects
13 of multiple [mild traumatic brain injury] in NFL players" and that there was no "7 to
14 10-day window of increased susceptibility to sustaining another concussion."
15 However, this article sends the message that it is acceptable to return players to play
16 while still symptomatic, which contradicts literature published over the past twenty
17 years finding that athletes should be returned to play only after one week of sustaining
18 the injury and only if they are asymptomatic.

19 73. As a further example, in 2005, the MTBI published an article asserting
20 that returning to play after a concussion "does not involve significant risk of a second
21 injury either in the same game or during the season." However, a 2003 NCAA study
22 of 2,905 college football players found just the opposite: "Those who have suffered
23 concussions *are* more susceptible to further head trauma..." (Emphasis added).

24 74. On August 14, 2007, the NFL issued a press release and "informational"
25 pamphlets to its players – misinforming and downplaying the risks of concussive
26 brain injuries and the subsequent damaging effects to its players. The press release
27 and pamphlets stated that:

28 Current research with professional athletes has not shown that having

1 more than one or two concussions leads to permanent problems.... It is
2 important to understand that there is no magic number for how many
3 concussions is too many. (Emphasis added).

4 75. In November 2008 (and reiterated in September 2009), NFL spokesman
5 Greg Aiello (“Aiello”) (again misinforming and downplaying the risks of concussive
6 brain injuries and subsequent effects to the players) stated to the press:

7 Hundreds of thousands of people have played football and other sports
8 without experiencing any problem of this type and there continues to be
9 considerable debate within the medical community on the precise long-
10 term effects of concussions and how they relate to other risk factors.

11 Aiello neglected to mention that the “debate” was principally between scientists paid
12 by the NFL and scientists operating independently of the NFL and that players and
13 teams have incentive for players to return to games despite persistent symptoms.

14 76. Surprisingly, in a December 20, 2009 interview, Aiello – who had so
15 steadfastly denied any causal link between concussions and brain injury just a few
16 months earlier – admitted that “it’s quite obvious from the medical research that’s
17 been done that concussions... lead to long-term problems.”

18 77. Nevertheless, at a January 2010 congressional hearing, Dr. Ira Casson of
19 the MBTI provided oral and written testimony denying the validity of studies finding
20 a causal link between concussions and long-term neurological problems.

21 78. It was not until June 2010 that the NFL conceded that its efforts with
22 respect to concussions and brain injury and its research by the MTBI were rife with
23 duplicity, conflicts of interest and shocking ineptitude and it was not until this time
24 that the NFL finally warned any player of the long-term risks associated with multiple
25 concussions, including headaches, dizziness, dementia, depression, Alzheimer’s
26 disease, CTE and its related symptoms, and death.

Riddell Abetted The NFL And Misrepresented The Concussion Risks
Threatening The Players

79. Riddell manufactures helmets for use by NFL players. Since 1989, the Riddell helmet has been the NFL's official helmet and Riddell is the only helmet manufacturer allowed to display its logo on helmets used in NFL games. Prior to the commencement of the 2010 season, Riddell renewed its contract with the NFL, allowing Riddell to continue as the NFL's primary helmet provider through 2014. The NFL estimates that 75% of the helmets used in the NFL are manufactured by Riddell (Riddell estimates that figure is 77%).

80. Riddell has long been aware of medical issues concerning head injuries and concussions. Nonetheless, despite being the maker of the "official helmet" for the NFL, it did nothing to prevent the NFL's misrepresentations and concealment described in preceding paragraphs.

81. Indeed, Riddell actively abetted the work of the NFL's MTBI. In 1997, Riddell became a part of the MTBI's project of assessing concessions and health consequences to NFL players by analyzing and reconstructing head impacts. In 2006, Riddell sponsored a study appearing in *Neurosurgery* that was co-authored by members of the MTBI. The study touted Riddell's "Revolution" helmet as reducing the risk of concussions in over 2,000 high school athletes in Western Pennsylvania. The study has been publicly criticized as providing players with a mistaken sense of security and being worthless.

82. Riddell failed to warn active players of the risk of concussive brain injuries and the subsequent damaging effects until approximately the same time as the NFL.

Defendants' Conduct Rises Beyond Mere Negligence

83. The aforementioned acts and omissions of Defendants demonstrate that Defendants acted with callous indifference to the rights of and the duties owed to Plaintiffs, the all American Rules Football leagues and players, and the public at

1 large.

2 84. The conduct of Defendants was willful and wanton and exhibits a
3 reckless disregard for the rights and safety of the players. Defendants, and each of
4 them, knew that a substantial risk of physical and mental harm to NFL players existed
5 in connection with repeated concussive brain injuries. Defendants, and each of them,
6 consciously, willfully, and deliberately disregarded the safety of others in continually
7 undertaking to establish and promulgate rules for the NFL, but failing to address or
8 disclose this substantial risk, as immediately aforesaid, in connection with such rules,
9 and/or continuing to manufacture, sell, and distribute football helmets which they
10 knew would not protect players against this risk.

11 85. Why NFL policy changes, accurate information sharing and warnings of
12 the long-term risks associated with multiple concussions were not recommended by
13 the NFL's so called "expert" committee soon after its creation in 1994, or even earlier
14 by the NFL and/or its "official helmet" manufacturer, or why it took the NFL 16 years
15 to even admit that there was a problem is difficult to comprehend.

16 **Equitable Tolling**

17 86. The applicable statute of limitations is tolled because Defendants'
18 fraudulent concealment of the dangers and adverse effects of head injuries and
19 concussions made it impossible for Plaintiffs to learn of the hazards to their health.

20 87. Plaintiffs did not become reasonably aware of the dangerous nature of or
21 the adverse side effects associated with their head injuries and concussions prior to
22 June 2010 when Defendants finally warned any player of the long-term risks
23 associated with multiple concussions, including headaches, dizziness, dementia,
24 depression, Alzheimer's disease, CTE and its related symptoms, and death. The
25 accrual of a complete cause of action relating to the cognizable physical manifestation
26 of the injury did not exist until that time.

27 88. Defendants were under a continuing duty to disclose the true nature of
28 the head injuries and concussions received by Plaintiffs.

89. Defendants, in the course of their businesses, concealed and omitted material key facts about the dangers and adverse effects of head injuries and concussions received by Plaintiffs, which prevented Plaintiffs from discovering a link between their on-field head injuries and concussions and their long-term physical and mental health. Because of Defendants' concealment and omission, Defendants are estopped from relying on any statute of limitation defense.

Johnnie Morton

90. Plaintiff Johnnie Morton was born on October 7, 1971, in Inglewood, California. He currently lives in Los Angeles, California.

91. Plaintiff Johnnie Morton was drafted in the First Round of the NFL Draft, and played for the Detroit Lions from 1994 through 2001. Following the 2001 season, Johnnie Morton joined the Kansas City Chiefs through 2004. In 2005, he played for the San Francisco 49ers.

92. Plaintiff Johnnie Morton suffered multiple concussions that were improperly diagnosed and improperly treated throughout his career as a professional football player in the NFL.

93. Plaintiff Johnnie Morton was not warned by the NFL, NFL Properties, Inc. or Riddell Defendants of the risk of long-term injury due to football-related concussions or that the league-mandated equipment did not protect him from such injury. This was a substantial factor in causing his current injury.

94. Plaintiff Johnnie Morton suffers from multiple past traumatic brain injuries affecting multiple areas of his brain and includes but is not limited to the following symptoms: headaches, memory loss, dizziness and depression.

Kez McCorvey

95. Plaintiff Kez McCorvey was born on January 23, 1972 in Gautier, Mississippi. He currently lives in Tallahassee, Florida, with his wife and four children.

96. Plaintiff Kez McCorvey was drafted in the Fifth Round, and played as a

1 Receiver for the Detroit Lions from 1995 through 1998. In 1999, he attended camp
2 with the Carolina Panthers.

3 97. Plaintiff Kez McCorvey suffered multiple concussions that were
4 improperly diagnosed and improperly treated throughout his career as a professional
5 football player in the NFL.

6 98. Plaintiff Kez McCorvey was not warned by the NFL, NFL Properties,
7 Inc. or Riddell Defendants of the risk of long-term injury due to football-related
8 concussions or that the league-mandated equipment did not protect him from such
9 injury. This was a substantial factor in causing his current injury.

10 99. Plaintiff Kez McCorvey suffers from multiple past traumatic brain
11 injuries affecting multiple areas of his brain and includes but is not limited to the
12 following symptoms: headaches, memory loss, blurred vision, tingling in the neck,
13 ringing in the ears, dizziness and depression.

14 **Kurt Barber**

15 100. Plaintiff Kurt Barber was born on January 5, 1969, in Kentucky. He
16 currently lives in Campbellsville, Kentucky.

17 101. Plaintiff Barber played for the New York Jets from 1992 through 1995.
18 Beginning in 1997, he attended camp with the Denver, Broncos, was released from
19 the Broncos and finished camp with the Chicago Bears.

20 102. Plaintiff Kurt Barber suffered multiple concussions that were improperly
21 diagnosed and improperly treated throughout his career as a professional football
22 player in the NFL.

23 103. Plaintiff Kurt Barber was not warned by the NFL, NFL Properties, Inc.
24 or Riddell Defendants of the risk of long-term injury due to football-related
25 concussions or that the league-mandated equipment did not protect him from such
26 injury. This was a substantial factor in causing his current injury.

27 104. Plaintiff Kurt Barber suffers from multiple past traumatic brain injuries
28 affecting multiple areas of his brain and includes but is not limited to the following

1 symptoms: short –term memory loss and depression.

2 **Mike Sherrard**

3 105. Plaintiff Mike Sherrard was born on June 21, 1963, in Oakland,
4 California. He currently lives in Calabasas, California.

5 106. Plaintiff Mike Sherrard played for the Dallas Cowboys beginning in
6 1986, where he played until 1989. Beginning in 1989 through the 1992 season, Mike
7 Sherrard played for the San Francisco 49ers. In 1993, Sherrard moved to the New
8 York Giants, and played in New York until approximately 1995. In his final year,
9 1996, Mike Sherrard played for the Denver Broncos.

10 107. Plaintiff Mike Sherrard suffered multiple concussions that were
11 improperly diagnosed and improperly treated throughout his career as a professional
12 football player in the NFL.

13 108. Plaintiff Mike Sherrard was not warned by the NFL, NFL Properties,
14 Inc. or Riddell Defendants of the risk of long-term injury due to football-related
15 concussions or that the league-mandated equipment did not protect him from such
16 injury. This was a substantial factor in causing his current injury.

17 **Stockar McDougale**

18 109. Plaintiff Stockar McDougale was born on January 11, 1977, in Fort
19 Lauderdale, Florida. He currently lives in Parkland, Florida.

20 110. Plaintiff Stockar McDougale played for the Detroit Lions from 2000 to
21 2004, the Miami Dolphins in 2005 and the Jacksonville Jaguars in 2006 through
22 2008.

23 111. Plaintiff Stockar McDougale suffered multiple concussions that were
24 improperly diagnosed and improperly treated throughout his career as a professional
25 football player in the NFL.

26 112. Plaintiff Stockar McDougale was not warned by the NFL, NFL
27 Properties, Inc. or Riddell Defendants of the risk of long-term injury due to football-
28 related concussions or that the league-mandated equipment did not protect him from

1 such injury. This was a substantial factor in causing his current injury.

2 113. Plaintiff Stockar McDougale suffers from multiple past traumatic brain
3 injuries affecting multiple areas of his brain and includes but is not limited to the
4 following symptoms: headaches, memory loss, ringing in the ears, double and blurred
5 vision, light sensitivity, sleeplessness and early on-set dementia.

6 **Toi Cook**

7 114. Plaintiff Toi Cook was born on December 3, 1964, in Chicago, Illinois.
8 He currently lives in Westlake Village, California.

9 115. Plaintiff Toi Cook played for the New Orleans Saints from 1987 through
10 1993. Thereafter, he played for the San Francisco 49ers, from 1994 to 1995. During
11 the 1996 and 1997 seasons, Toi Cook played for the Carolina Panthers.

12 116. Plaintiff Toi Cook suffered multiple concussions that were improperly
13 diagnosed and improperly treated throughout his career as a professional football
14 player in the NFL.

15 117. Plaintiff Toi Cook was not warned by the NFL, NFL Properties, Inc. or
16 Riddell Defendants of the risk of long-term injury due to football-related concussions
17 or that the league-mandated equipment did not protect him from such injury. This
18 was a substantial factor in causing his current injury.

19 118. Plaintiff Toi Cook suffers from multiple past traumatic brain injuries
20 affecting multiple areas of his brain and includes but is not limited to the following
21 symptoms: sleeplessness.

22 **Brian C. Dudley**

23 119. Plaintiff Brian C. Dudley was born on August 30, 1960, in Los Angeles,
24 California. He currently lives in Los Angeles, California.

25 120. Plaintiff Brian C. Dudley played for the Cleveland, Browns during the
26 1987 season.

27 121. Plaintiff Brian C. Dudley suffered multiple concussions that were
28 improperly diagnosed and improperly treated throughout his career as a professional

1 football player in the NFL.

2 122. Plaintiff Brian C. Dudley was not warned by the NFL, NFL Properties,
3 Inc. or Riddell Defendants of the risk of long-term injury due to football-related
4 concussions or that the league-mandated equipment did not protect him from such
5 injury. This was a substantial factor in causing his current injury.

6 123. Plaintiff Brian C. Dudley suffers from multiple past traumatic brain
7 injuries affecting multiple areas of his brain and includes but is not limited to the
8 following symptoms: short-term memory loss, headaches, blurred vision and sleep-
9 deprived anxiety.

10 **Brad Booth**

11 124. Plaintiff Brad Booth lives in Los Angeles, California.

12 125. Plaintiff Brad Booth played for the Oilers from 1987 to 1988.

13 126. Plaintiff Brad Booth suffered multiple concussions that were improperly
14 diagnosed and improperly treated throughout his career as a professional football
15 player in the NFL.

16 127. Plaintiff Brad Booth was not warned by the NFL, NFL Properties, Inc. or
17 Riddell Defendants of the risk of long-term injury due to football-related concussions
18 or that the league-mandated equipment did not protect him from such injury. This
19 was a substantial factor in causing his current injury.

20 128. Plaintiff Brad Booth suffers from multiple past traumatic brain injuries
21 affecting multiple areas of his brain and includes but is not limited to the following
22 symptoms:

23 **Chris Hale**

24 129. Plaintiff Chris Hale was born on January 4, 1966, in Monrovia,
25 California. He currently lives in West Covina, California.

26 130. Plaintiff Chris Hale played for the Buffalo Bills from 1989 through 1992.

27 131. Plaintiff Chris Hale suffered multiple concussions that were improperly
28 diagnosed and improperly treated throughout his career as a professional football

1 player in the NFL.

2 132. Plaintiff Chris Hale was not warned by the NFL, NFL Properties, Inc. or
3 Riddell Defendants of the risk of long-term injury due to football-related concussions
4 or that the league-mandated equipment did not protect him from such injury. This
5 was a substantial factor in causing his current injury.

6 133. Plaintiff Chris Hale suffers from multiple past traumatic brain injuries
7 affecting multiple areas of his brain and includes but is not limited to the following
8 symptoms: short-term memory loss.

9 **John Jackson**

10 134. Plaintiff John Jackson was born on January 2, 1967, in Brooklyn, New
11 York. He currently lives in Diamond Bar, California, with his wife, Ann Frances.

12 135. Plaintiff John Jackson played for the Arizona Cardinals from 1990
13 through 1992 and for the Chicago Bears in 1996.

14 136. Plaintiff John Jackson suffered multiple concussions that were
15 improperly diagnosed and improperly treated throughout his career as a professional
16 football player in the NFL.

17 137. Plaintiff John Jackson was not warned by the NFL, NFL Properties, Inc.
18 or Riddell Defendants of the risk of long-term injury due to football-related
19 concussions or that the league-mandated equipment did not protect him from such
20 injury. This was a substantial factor in causing his current injury.

21 138. Plaintiff John Jackson suffers from multiple past traumatic brain injuries
22 affecting multiple areas of his brain and includes but is not limited to the following
23 symptoms: short-term memory loss and anxiety.

24 **Dennis Clay**

25 139. Plaintiff Dennis Clay was born on February 5, 1960, in Los Angeles,
26 California. He currently lives in Cerritos, California, with his wife, Stacey.

27 140. Plaintiff Dennis Clay attended camp with the Dallas Cowboys in the
28 1983 pre-season.

1 141. During camp, Plaintiff Dennis Clay suffered at least one concussion that
2 was improperly diagnosed and improperly treated.

3 142. Plaintiff Dennis Clay was not warned by the NFL, NFL Properties, Inc.
4 or Riddell Defendants of the risk of long-term injury due to football-related
5 concussions or that the league-mandated equipment did not protect him from such
6 injury. This was a substantial factor in causing his current injury.

7 143. Plaintiff Dennis Clay suffers from multiple past traumatic brain injuries
8 affecting multiple areas of his brain and includes but is not limited to the following
9 symptoms: headaches, blurred vision, short-term memory loss and anxiety.

10 **Norman Scott Byers**

11 144. Plaintiff Norman Scott Byers was born on July 3, 1968, in Bayonne,
12 New Jersey. He currently lives in Los Angeles, California, with his wife, Stephanie.

13 145. Plaintiff Norman Scott Byers played for the San Diego Chargers from
14 1982 through 1984.

15 146. Plaintiff Norman Scott Byers suffered multiple concussions that were
16 improperly diagnosed and improperly treated throughout his career as a professional
17 football player in the NFL.

18 147. Plaintiff Norman Scott Byers was not warned by the NFL, NFL
19 Properties, Inc. or Riddell Defendants of the risk of long-term injury due to football-
20 related concussions or that the league-mandated equipment did not protect him from
21 such injury. This was a substantial factor in causing his current injury.

22 148. Plaintiff Norman Scott Byers suffers from multiple past traumatic brain
23 injuries affecting multiple areas of his brain and includes but is not limited to the
24 following symptoms: headaches, short-term memory loss and anxiety.

25 **Darryl Crane**

26 149. Plaintiff Darryl Crane was born on October 24, 1960, in Jacksonville,
27 Florida. He currently lives in Orlando, Florida.

28 150. Plaintiff Darryl Crane played for the Pittsburgh Steelers in the 1983 pre-

1 season and the 1987 season.

2 151. Plaintiff Darryl Crane suffered multiple concussions that were
3 improperly diagnosed and improperly treated throughout his career as a professional
4 football player in the NFL.

5 152. Plaintiff Darryl Crane was not warned by the NFL, NFL Properties, Inc.
6 or Riddell Defendants of the risk of long-term injury due to football-related
7 concussions or that the league-mandated equipment did not protect him from such
8 injury. This was a substantial factor in causing his current injury.

9 153. Plaintiff Darryl Crane suffers from multiple past traumatic brain injuries
10 affecting multiple areas of his brain and includes but is not limited to the following
11 symptoms: chronic re-occurring TMJ, pain in the neck, constant headaches, sleep
12 deprivation, depression, chronic fatigue, dizziness, memory loss, sudden confusion,
13 blurred vision, diminished hearing, severe joint pain, numbness and stiffness, and loss
14 of taste sensory.

15 **Benjamin J. Scotti**

16 154. Plaintiff Benjamin J. Scotti was born on June 9, 1937, in Newark, New
17 Jersey. He lives in Beverly Hills, California.

18 155. Plaintiff Benjamin J. Scotti played for the Washington Redskins from
19 1959 through 1961, for the Philadelphia Eagles from 1962 through 1963, and for the
20 San Francisco 49ers in 1964.

21 156. Plaintiff Benjamin J. Scotti suffered multiple concussions that were
22 improperly diagnosed and improperly treated throughout his career as a professional
23 football player in the NFL.

24 157. Plaintiff Benjamin J. Scotti was not warned by the NFL, NFL Properties,
25 Inc. or Riddell Defendants of the risk of long-term injury due to football-related
26 concussions or that the league-mandated equipment did not protect him from such
27 injury. This was a substantial factor in causing his current injury.

28 158. Plaintiff Benjamin J. Scotti suffers from multiple past traumatic brain

injuries affecting multiple areas of his brain and includes but is not limited to the following symptoms: manic depression, bipolar disorder and claustrophobia.

Ralph V. Guglielmi

159. Plaintiff Ralph V. Guglielmi was born on June 26, 1933, in Columbus, Ohio. Mr. Guglielmi currently lives in Wallace, North Carolina.

160. Plaintiff Ralph V. Guglielmi was drafted in the first round of the 1955 NFL draft and was the quarterback for the Washington Redskins from 1955 to 1960, for the St. Louis Cardinals in 1961, for the New York Giants from 1962 through 1963, and for the Philadelphia Eagles in 1964.

161. Plaintiff Ralph V. Guglielmi suffered multiple concussions that were improperly diagnosed and improperly treated throughout his career as a professional football player in the NFL, including, but not limited to, a severe hit to his head which caused temporary loss of sensation in his legs.

162. Plaintiff Ralph V. Guglielmi was not warned by the NFL, NFL Properties, Inc. or Riddell Defendants of the risk of long-term injury due to football-related concussions or that the league-mandated equipment did not protect him from such injury. This was a substantial factor in causing his current injury.

163. Plaintiff Ralph V. Guglielmi suffers from multiple past traumatic brain injuries affecting multiple areas of his brain and includes but is not limited to the following symptoms: short term memory loss.

FIRST CAUSE OF ACTION

NEGLIGENCE

(As Against The NFL)

164. Plaintiffs incorporate by reference the foregoing paragraphs as if fully set forth herein at length.

165. By managing, governing and promoting the game of football, setting and enforcing rules and league policies, regulating team ownership, affirmatively and voluntarily establishing the MTBI to examine the dangers and consequences of

1 concussive brain injuries to NFL players, and by and through its monopoly power in
2 American football, the NFL assumed a gratuitous independent tort duty to protect the
3 health and safety of its players, including Plaintiffs, including, but not limited to, a
4 duty to establish and enforce rules that protect its players, a duty to use reasonable
5 care in researching, studying and/or examining the dangers and risks of concussive
6 brain injuries and the subsequent damaging effects to its players, a duty to inform and
7 warn its players of such risks, and a duty to take other reasonable action to minimize
8 such risks to its players.

9 166. The NFL breached its duty to its players, including Plaintiffs, to use
10 ordinary care to protect the health and safety of its players by failing to enact rules,
11 policies and regulations to best protect its players, including, but not limited to,
12 mandatory rules that would prevent a player who suffered a concussive brain injury
13 from returning to play or practice at risk of further injury.

14 167. The NFL breached its duty to its players, including Plaintiffs, to use
15 ordinary care to protect the health and safety of its players by implementing
16 standardized post-concussion guidelines, which permitted players to return to play or
17 practice too soon after a concussive brain injury, which were false and misleading,
18 and which failed to apprise Plaintiffs of the risks of concussive brain injuries and the
19 subsequent damaging effects.

20 168. The NFL breached its duty to its players, including Plaintiffs, to use
21 ordinary care to protect the health and safety of its players by failing to invoke
22 league-wide guidelines, policies and procedures regarding the identification and
23 treatment of concussive brain injury, and the return to play after a concussive brain
24 injury.

25 169. The NFL breached its duty to its players, including Plaintiffs, to use
26 ordinary care to protect the health and safety of its players by failing to provide
27 complete, current, and competent information and directions to NFL physicians,
28 trainers and coaches regarding concussive brain injuries and its prevention, symptoms

1 and treatment.

2 170. The NFL breached its duty to its players, including Plaintiffs, to use
3 ordinary care to protect the health and safety of its players by failing to properly
4 inform or warn its players, including Plaintiffs, and the public of the risks of
5 concussive brain injuries and the subsequent damaging effects.

6 171. The NFL breached its duty to its players, including Plaintiffs, to use
7 ordinary care to protect the health and safety of its players by failing to ensure
8 accurate diagnosis and recording of concussive brain injury be taken of its players so
9 conditions may be treated in an adequate and timely manner.

10 172. The NFL breached its duty to its players, including Plaintiffs, to use
11 ordinary care to protect the health and safety of its players by failing to regulate and
12 monitor practices, games, equipment, and medical care so as to minimize the long-
13 term risks associated with concussive brain injuries suffered by its players, including
14 Plaintiffs.

15 173. The NFL breached its duty to its players, including Plaintiffs, to use
16 ordinary care to protect the health and safety of its players by failing to license and
17 approve the best equipment available that will reduce the risk of concussive brain
18 injury.

19 174. The NFL breached its duty to its players, including Plaintiffs, to use
20 ordinary care to protect the health and safety of its players by failing to use reasonable
21 care in the manner in which it created the MTBI and in the appointment of physicians
22 to head the MTBI who were not qualified for the job.

23 175. The NFL breached its duty to its players, including Plaintiffs, to use
24 ordinary care to protect the health and safety of its players by failing to use reasonable
25 care in researching, studying and/or examining the risks of head injuries and/or
26 concussions in professional football and in downplaying (and in many cases, denying)
27 both the seriousness of such injuries and the clear causal connection between
28 concussions and brain damage.

1 176. The NFL breached its duty to its players, including Plaintiffs, to use
2 ordinary care to protect the health and safety of its players by failing to use reasonable
3 care in responding to independent scientific studies on the risk of concussive brain
4 injuries and the subsequent damaging effects.

5 177. The NFL breached its duty to its players, including Plaintiffs, to use
6 ordinary care to protect the health and safety of its players by failing to use reasonable
7 care in denying and/or ignoring scientific evidence connecting concussive brain
8 injuries to the risk of brain disease.

9 178. The NFL breached its duty to its players, including Plaintiffs, to use
10 ordinary care to protect the health and safety of its players by engaging in practices
11 that restrain the development of good science on the problem of concussion injuries.

12 179. The NFL breached its duty to its players, including Plaintiffs, to use
13 ordinary care to protect the health and safety of its players by failing to prevent its
14 players, including Plaintiffs, from being coached, trained and encouraged to use all
15 portions of their helmets to block, tackle, butt, spear, ram and/or injure opposing
16 players by hitting with their helmeted heads.

17 180. The NFL breached its duty to its players, including Plaintiffs, to use
18 ordinary care to protect the health and safety of its players by condoning or failing to
19 significantly condemn its players, including Plaintiffs, from using of all portions of
20 their helmets to block, tackle, butt, spear, ram and/or injure opposing players by
21 hitting with their helmeted heads.

22 181. The NFL breached its duty to its players, including Plaintiffs, to use
23 ordinary care to protect the health and safety of its players by subjecting players,
24 including Plaintiffs, to an increased risk of concussive brain injury.

25 182. Plaintiffs relied on the NFL's misrepresentations (including affirmative
26 misrepresentations and omissions) detailed herein to their detriment.

27 183. Had the NFL taken the necessary steps to oversee and protect its players,
28 including Plaintiffs, by developing and implementing necessary guidelines, policies

1 and procedures and properly informing, educating and training all persons involved
2 with the NFL in the recognition, prevention and treatment of concussive brain
3 injuries, then the NFL players, including Plaintiffs, would not have suffered from the
4 subject condition, would have recovered from the subject condition, and/or would not
5 have suffered the subsequent damaging effects of the subject condition.

6 184. Under all of the above circumstances, it was foreseeable that the NFL's
7 breach of its duties would cause or substantially contribute to the injuries suffered by
8 Plaintiffs.

9 185. The NFL's omissions and commissions, collectively and severally,
10 constituted negligence.

11 186. The NFL's negligence was a proximate and producing cause of the
12 injuries suffered by Plaintiffs.

13 187. As a result of Plaintiffs' injuries, they are entitled to damages, as alleged
14 herein or allowed by law, from the NFL in an amount to be reasonably anticipated to
15 exceed the jurisdictional minimum of \$25,000.

16 **SECOND CAUSE OF ACTION**

17 **FRAUD**

18 **(As Against The NFL)**

19 188. Plaintiffs incorporate by reference the foregoing paragraphs as if fully set
20 forth herein at length.

21 189. Until June 2010, the NFL, through its MTBI, its agents and others, made
22 material misrepresentations (and omissions) to its players, former players, including
23 Plaintiffs, Congress and the public that there was no causal link between concussions
24 and subsequent brain injury, including headaches, dizziness, dementia, depression,
25 Alzheimer's disease, CTE and death and that NFL players, including Plaintiffs, were
26 not at an increased risk of head injury if they returned to play or practice too soon
27 after suffering a head injury.

28 190. The material misrepresentations were made by agents of the NFL on

multiple occasions, including, but not limited to MTBI publications, the August 14, 2007 press release and “informational” pamphlets issued to NFL players, and the November 2008 press statement made by NFL spokesman Aiello.

191. The persons who made the misrepresentations were agents of the NFL and knew they were false when they were made.

192. The persons who made the misrepresentations, as agents of the NFL, intended to defraud, among others, Plaintiffs in this action and to prevent negative publicity and increased scrutiny of its medical practices.

193. Plaintiffs, among others, justifiably relied on these misrepresentations to their detriment in returning to play or practice too soon or not seeking appropriate medical care after sustaining a head injury.

194. The NFL knew, or should have known, that Plaintiffs would rely on the NFL’s misrepresentations.

195. Plaintiffs, among others, were damaged by these misrepresentations. Among other things, they require increased home care, loss of employment, medical costs and pain and suffering.

196. As a result of Plaintiffs’ injuries, they are entitled to damages, as alleged herein or allowed by law, from the NFL in an amount to be reasonably anticipated to exceed the jurisdictional minimum of \$25,000.

THIRD CAUSE OF ACTION
FRAUDULENT CONCEALMENT
(Against the NFL)

197. Plaintiffs incorporate by reference the foregoing paragraphs as if set fully herein at length.

198. The NFL and its MTBI concealed from Plaintiffs the risk of concussive brain injuries and the risk to Plaintiffs if they returned to play or practice too soon after suffering from a head injury.

199. In particular, the NFL and its MBTI, through public statements,

1 published articles, testimony at congressional hearings, and the August 14, 2007
2 “informational” pamphlet (which was issued directly to NFL players), concealed and
3 misrepresented the known long-term risks of concussive brain injuries to NFL
4 players, including Plaintiffs.

5 200. The NFL and its MBTI failed to disclose the clear link between
6 concussions and long-term neurological injuries and concealed this information from
7 its players, including Plaintiffs, with an intent to defraud Plaintiffs and prevent
8 negative publicity and increased scrutiny of its medical practices.

9 201. The NFL, in managing, governing and promoting the game of football,
10 setting and enforcing rules and league policies, and regulating team ownership, had
11 the duty to disclose the risks faced by its players, including Plaintiffs, relating to
12 concussive brain injuries received by them during their NFL careers.

13 202. NFL players, including Plaintiffs, relied on the NFL’s and the MBTI’s
14 public statements, published articles, testimony at congressional hearings and/or at
15 least the August 14, 2007 “informational” pamphlet, which was issued directly to all
16 NFL players. Plaintiffs were unaware of the true risks of the concussive brain injuries
17 they sustained during their NFL careers.

18 203. The NFL knew that Plaintiffs would rely on the inaccurate information in
19 selecting their course of action (i.e. returning to play or practice too soon or not
20 seeking appropriate medical care after sustaining a head injury). In issuing the
21 “informational” pamphlet, the NFL stated, “[we want to make sure all N.F.L.
22 players... are fully informed and take advantage of the most up to date information
23 and resources as we continue to study the long-term impact on concussions.”

24 204. As a direct and proximate result of the NFL’s fraudulent conduct,
25 Plaintiffs have suffered injuries, including, but not limited to short-term memory loss,
26 headaches, blurred vision, sleep deprived anxiety and economic loss.

27 **FOURTH CAUSE OF ACTION**
28 **NEGLIGENT MISREPRESENTATION**

(Against the NFL)

205. Plaintiffs incorporate by reference the foregoing paragraphs as if set fully herein at length.

206. The NFL misrepresented the dangers of concussive brain injuries received by its players and the dangers which its players faced in returning to play or practice too quickly after sustaining a head injury. The NFL's MTBI, through public statements, published articles and the August 14, 2007 "informational" pamphlet, which it issued directly to all NFL players, misleadingly downplayed the long-term risks of concussions to NFL players.

207. The NFL's material misrepresentations include, but are not limited to:

(a) MBTI articles asserting that returning to play after a concussion "does not involve significant risk of a second injury either in the same game or during the season"; and

(b) The NFL's press release and issuance of the August 14, 2007 pamphlet to NFL physicians, trainers, coaches and players, asserting that "Current research with professional athletes has not shown that having more than one or two concussions leads to permanent problems... It is important to understand that there is no magic number for how many concussions is too many."

208. The NFL knew or should have known that such statements, articles and pamphlet were false and misleading.

209. The NFL made these misrepresentations and actively concealed contrary information with the intent that its players, including Plaintiffs, would rely on the misrepresentations or omissions in selecting their course of action (i.e. returning to play or practice too soon or not seeking appropriate medical care after sustaining a head injury), to prevent negative publicity and to prevent increased scrutiny of its medical practices.

210. Plaintiffs did not know, nor should Plaintiffs have known, that the NFL's

1 statements were false or misleading.

2 211. Plaintiffs reasonably relied upon the misrepresentations of the NFL in
3 selecting their course of action during and after their NFL careers to their detriment.

4 212. As a direct and proximate result of the NFL's fraudulent conduct,
5 Plaintiffs have suffered injury, including, but not limited to, short-term memory loss,
6 headaches, blurred vision, sleep deprived anxiety and economic loss.

7 **FIFTH CAUSE OF ACTION**

8 **STRICT LIABILITY FOR DESIGN DEFECT**

9 **(As Against Riddell)**

10 213. Plaintiffs incorporate by reference the foregoing paragraphs as if set
11 forth herein at length.

12 214. Riddell designs, manufactures, sells and distributes football equipment,
13 including helmets, to the NFL, and has been the official helmet provider of the NFL
14 since 1989.

15 215. At the time the helmets were designed, manufactured, sold and
16 distributed by Riddell, the helmets were defective in design, unreasonably dangerous,
17 and unsafe for their intended purpose because they did not provide adequate
18 protection against the foreseeable risk of concussive brain injury. The design defect
19 includes, but is not limited to, the following:

20 (a) Negligently failing to design the subject helmet with a safe means
21 of attenuating and absorbing the foreseeable forces of impact in order to
22 minimize and/or reduce the forces and energy directed to the player's head;

23 (b) Negligently designing the subject helmet with a shock attenuating
24 system which was not safely configured for all portions of the helmets
25 reasonably foreseen to be used by players;

26 (c) Negligently failing to properly and adequately test the helmet
27 model;

28 (d) Negligently failing to warn players, including Plaintiffs, that their

1 helmets would not protect against the long-term health consequences of
2 concussive brain injury resulting from reasonably foreseen uses of the helmets
3 by players; and

4 (e) Other acts of negligence that may be discovered during the course
5 of this matter.

6 216. At all times, the helmets were used for the purpose for which they were
7 intended. All portions of the helmets were used by players, including Plaintiffs, to
8 block, tackle, butt, spear, ram and/or injure opposing players by hitting with their
9 helmeted heads. Such use was reasonably foreseeable to Riddell.

10 217. Riddell is strictly liable for designing a defective and unreasonably
11 dangerous product and for failing to warn players, including Plaintiffs, of the
12 defective design and unreasonably dangerous condition of the helmets.

13 218. The defective design and unreasonably dangerous condition of the
14 helmets and Riddell's failure to warn were proximate and substantial causes of
15 Plaintiffs' injuries and other damages, including, but not limited to, economic and
16 non-economic damages.

17 219. A safer alternative design was economically and technologically feasible
18 at the time the product was designed, manufactured, sold and distributed by Riddell.

19 220. As a result of Plaintiffs' injuries, Plaintiffs are entitled to damages from
20 Riddell in an amount reasonably anticipated to exceed the jurisdiction minimum of
21 \$25,000.

22 **SIXTH CAUSE OF ACTION**

23 **NEGLIGENCE**

24 **(As Against Riddell)**

25 221. Plaintiffs incorporate by reference the foregoing paragraphs as if set
26 forth herein at length.

27 222. Riddell designs, manufactures, sells and distributes football equipment,
28 including helmets, to the NFL, and has been the official helmet provider of the NFL

1 since 1989. In 1997, Riddell became a part of the NFL's MTBI project of assessing
 2 concussions and health consequences to NFL players by analyzing and reconstructing
 3 head impacts. In 2006, Riddell undertook a study appearing in *Neurosurgery* that was
 4 co-authored by members of the MTBI. The study touted Riddell's "Revolution"
 5 helmet as reducing the risk of concussions in over 2,000 high school athletes in
 6 Western Pennsylvania.

7 223. As such, Riddell has the duty to provide necessary and adequate safety
 8 and instructional materials, warnings and means to reduce and/or minimize the risks
 9 associated with concussive brain injuries sustained by players, including Plaintiffs,
 10 while playing football and while wearing Riddell's helmets.

11 224. Riddell failed to provide the necessary and adequate safety and
 12 instructional materials, warnings and means to reduce and/or minimize the risks
 13 associated with concussive brain injuries sustained by players, including Plaintiffs,
 14 while playing football and while wearing Riddell's helmets.

15 225. As a result of Riddell's breach of duty, Plaintiffs have suffered injuries,
 16 including, but not limited to, short-term memory loss, headaches, blurred vision, sleep
 17 deprived anxiety and economic loss.

18 226. As a result of Plaintiffs' injuries, Plaintiffs are entitled to damages from
 19 Riddell in an amount reasonably anticipated to exceed the jurisdictional minimum of
 20 \$25,000.

21 **SEVENTH CAUSE OF ACTION**

22 **FAILURE TO WARN**

23 **(As Against Riddell)**

24 227. Plaintiffs incorporate by reference the foregoing paragraphs as if set
 25 forth herein at length.

26 228. Riddell designs, manufactures, sells and distributes football equipment,
 27 including helmets, to the NFL, and has been the official helmet provider of the NFL
 28 since 1989.

229. At the time the helmets were designed, manufactured, sold and distributed by Riddell, Riddell knew or should have known of the substantial dangers involved in the reasonably foreseeable uses of the helmets.

230. The risks involved in the reasonably foreseeable uses of the helmets presented a substantial danger to users of the helmets, including Plaintiffs.

231. Ordinary consumers, including Plaintiffs, would not have recognized or known the potential risks and dangers involved in the reasonably foreseeable uses of the helmets.

232. Riddell knew that these substantial dangers were not readily recognizable to ordinary consumers, including Plaintiffs, and that such persons, including Plaintiffs, would use the helmets without inspection for defects.

233. Riddell failed to adequately warn (and instruct) users of the helmets, including Plaintiffs, of the risks involved in the reasonably foreseeable uses of the helmets.

234. At all times, the helmets were used for the purpose for which they were intended. All portions of the helmets were used by players, including Plaintiffs, to block, tackle, butt, spear, ram and/or injure opposing players by hitting with their helmeted heads. Such use was reasonably foreseeable to Riddell.

235. As a result of the lack of sufficient warnings and/or instructions, Plaintiffs suffered injuries and damages, including, but not limited to, economic and non-economic damages.

236. The lack of sufficient warnings and/or instructions was a substantial factor in causing Plaintiffs' injuries and other damages.

237. As a result of Plaintiffs' injuries and damages, Plaintiffs are entitled to damages from Riddell in an amount reasonably anticipated to exceed the jurisdiction minimum of \$25,000.

EIGHTH CAUSE OF ACTION

NEGLIGENCE

(As Against NFL Properties)

238. Plaintiffs incorporate by reference the foregoing paragraphs as if set forth herein at length.

239. NFL Properties is engaged in, among other activities, the approving of licensing and the promotion of equipment used by all NFL teams and NFL players, including Plaintiffs. As such, NFL Properties has a duty to ensure that the equipment it licensed and approved were of the highest possible quality and were sufficient to protect the NFL players, including Plaintiffs, from the risks associated with concussive brain injuries.

240. NFL Properties breached its duty by licensing Riddell's helmets and approving and/or requiring the use of Riddell's helmets by the NFL players, including Plaintiffs, while knowing, or having reason to know, that the helmets were negligently and defectively designed and/or manufactured.

241. As a result of these breaches by NFL Properties, Plaintiffs suffer injuries and the effects of concussive brain injuries, including, but not limited to, short-term memory loss, headaches, blurred vision, sleep deprived anxiety and economic loss.

242. As a result of Plaintiffs' injuries, Plaintiffs are entitled to damages from NFL Properties in an amount reasonably anticipated to exceed the jurisdictional minimum of \$25,000.

NINTH CAUSE OF ACTION

LOSS OF CONSORTIUM

(As Against All Defendants)

243. Plaintiffs incorporate by reference the foregoing paragraphs as if set forth herein at length.

244. As a direct and proximate result of the carelessness, negligence and recklessness of all Defendants and of the aforesaid injuries to their husbands, Octavia McDougale, Kristine Cook, Ann Frances Jackson, Stacey Clay and Stephanie Byers (collectively the "Wife Plaintiffs") have been damaged as follows:

- 1 (a) They have been and will continue to be deprived of the services,
 2 assistance, protection, affection, society and companionship of their husbands;
 3 (b) They have been and will continue to be required to spend money for
 4 medical care and household care for the treatment of their husbands;
 5 (c) They have been and will continue to be deprived of the earnings of their
 6 husbands.

7 245. As a result of their husbands' injuries, the Wife Plaintiffs are entitled to
 8 damages from the Defendants, in an amount reasonably anticipated to exceed the
 9 jurisdiction minimum of \$25,000.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of
 12 them, as follows:

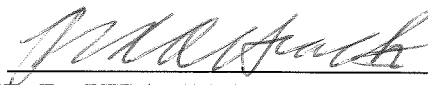
- 13 1. For compensatory and general damages according to proof;
 14 2. For special and incidental damages according to proof;
 15 3. For punitive damages where applicable;
 16 4. For costs of the proceedings herein, including reasonable attorneys' fees,
 17 to the extent permitted by law; and
 18 5. For all such other and further relief as the Court deems just.

19 **JURY DEMAND**

20 Plaintiffs hereby demand a trial by jury on all claims so triable.

21
 22 DATED: July 31, 2012

GLASER WEIL FINK JACOBS
 HOWARD AVCHEN & SHAPIRO LLP

24 By: 
 25 FRED D. HEATHER
 26 ADAM LEBERTHON
 27 MARY ANN T. NGUYEN

28 Attorneys for Plaintiffs